

REMARKS

Claim 1 has been amended to make it clear that the testing by the test provider at the remote testing facility is done utilizing a predetermined interactive website of the provider which will enable transmission of test questions directly from the test provider to the student and to enable transmission of answers to the test questions directly from the student to the test provider. New claim 6 has been provided to place this method in the context of providing traffic school for a traffic court through an authorized test provider at any facility capable of providing access to a computer and of verifying the identity of the person being tested.

The Examiner has cited Kershaw et al. Patent No. 5,827,070 in a 102(b) rejection of all five original claims in the application. The Kershaw et al. patent relates to a very complex computer based testing system in which a test which is developed and packaged with data files and application software at a development center. That packaged test is then transmitted in the form of computer disks from the development center to a test center (at a school or a dedicated test site) where it is downloaded onto the test center's computers. The "examinee" then sits at the computer work station, logs on, and inputs answers to the test questions on that computer. The examinee's answers are recorded on the hard disk of the computer for subsequent backup and transmission of the backup disk to a central processing center for grading (column 8, lines 33 - 50).

The Kershaw et al. system does not utilize an interactive website wherein there is a direct interactive communication between the test provider and the student or examinee. The test is developed and packaged, i.e. recorded on computer "data distribution disks", (see column 30, line 24) and in this form the tests are distributed to the test centers (see column 28, lines 18-19; column 30, line 24 and lines 36 - 39). The patent does mention delivery of the test files and applications to the test center in "electronic form" (column 30, lines 62 - 63)

although it is not clear exactly what this means. However, whether the tests are delivered by computer disk or other electronic form, it is clear that the tests are sent to the test center and are downloaded onto each of the work stations at the test center before the student takes the test. There is no interaction between the student or “examinee” and the test provider (see column 30, lines 63-64). At the test center the administrator may perform various functions in addition to the downloading of the test on computers, functions which include controlling access to computerized tests and related data through levels of authorization and password protection entering and editing examinee identification information prior to the testing session, selecting the test to administer, terminating the tests, backing up the examinee and administrative data, transmitting the data to the central processing site, and so forth (see column 10, lines 28-48). Such functions could not and would not be performed by the test facilities with applicant’s system where there is a direct interactive communication between the student and the test provider. The only thing the testing facility does is with applicants system is to verify the identity of the person being tested. Note with the Kershaw et al. system the administrator, not the student, receives the test from the test development and package center, and only the administrator transmits the data (student answers) to a central processing site. By contrast with applicant’s system all questions are transmitted by the test provider directly to the person being tested and the answers are transmitted by the person being tested directly to the test provider. No administrator is involved. It is thus a much more cost efficient system.

The Kershaw et al. system in general is no different from the system of a national test, such as an ACT test, where the test preparer prepares and packages the test and sends it to an experienced testing facility such as a high school for presenting to the student, with all testing controls resting with the high school. Upon completion of the test the high school sends the answers back to a central processing site for grading. The only difference is that the Kershaw

et al. system uses computers and involves complex preparation, packaging, transmission, testing, and grading procedures with elaborate security procedures, all of which are quite different from the procedures described and claimed by the applicant.

With the Kershaw et al. system the testing center performs all aspects of the testing except the preparation of the test questions and the grading of the answers. The testing facility administrator takes the input data (answers) from the student and transmits that data back for grading to the central processing site of the test preparation people. By contrast, with applicant's system a predetermined interactive website of the test provider is utilized which enables the test provider to directly transmit the test questions to the person being tested and permits that person to submit answers back directly to the test provider. The only functions provided by the testing facility are (1) the providing of a computer which can access the internet and (2) verifying the identity of the student or examinee. There is no middle administrator. There is no other function or input by the test facility. This system is thus totally different from the system of Kershaw et al. system which not only develops the tests, but transmits the tests by disks not to the student, but to the test facility so that the test facility can download the test onto its own work station hard drives. The testing facility does all of the work in connection with this except the development of the test and the grading of the test after it is completed by the examinee. The testing facility thus has total control over the manner in which the test is taken.

This is not at all what the applicant's system is, and the claims of the application have been amended to clearly point out that applicant's system utilizes a predetermined interactive website of the test provider to enable direct transmission between the student and the test provider and with only the student identity verification functions being performed by the testing facility. The difference is that the Kershaw et al. testing procedure relies substantially on the testing facility to do all of the administrative work in the testing process. Applicant's

procedure on the other hand, requires substantially no effort, no training and no testing experience on the part of the testing facility. The only thing that the testing facility does is to verify the identity of the person taking the test. Applicant's system does not rely upon the efforts of the testing facility, and thus it enables testing at any facility which has internet access and is willing to undertake a minimal identity verification for the person taking the test. Such a testing facility can be a Kinkos, an internet café, or any facility which permits public access to computers for purposes of accessing the internet.

Since applicant's system utilizes an interactive direct connection between the person taking the test and the test provider over the internet, the system does not use any disk space on the servers or hard drives of the testing facility, does not require downloading of a program onto the computer, and is quite inexpensive and easy to perform without any training or experience in giving test to persons. It is particularly adaptable, for example, to traffic court where the individual student can study on his own at home over the internet and then take the test at a testing facility such as a Kinkos, or other ubiquitous facility having computers accessible to the public.

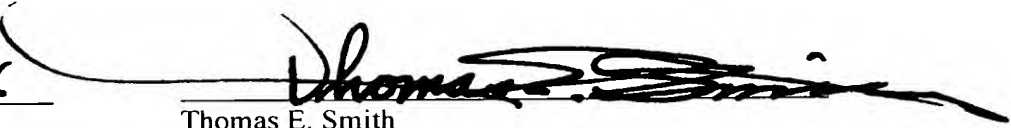
The claims as amended clearly distinguish applicant's system over the system of Kershaw et al. which could not be performed at a facility which is not a normal testing facility, such as Kinkos. All of the functions of testing are performed not by the testing facility but interactively between the student and the test provider. The testing facility needs to spend almost no personnel time in connection with applicant's system. Applicant's system has been approved by traffic courts in a number of jurisdictions enabling traffic offenders to attend traffic school at home on their own computers and then take the test at any of many facilities which have a computer with access to the internet and is willing to verify the identity of the person taking the test. The system is a convenient and inexpensive alternative to having drivers attend a traffic school class at some remote location. To applicant's

knowledge there is no comparable system and it makes compliance with the requirements of the court by attending traffic school and taking the traffic school test extremely easy.

It is believed that the claims of the application clearly distinguish over the prior art and that application should now be in condition for allowance. Such action is respectfully requested.

Respectfully submitted,

Date: 6/21/2004


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